

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF INTEGRATED RESOURCE)	
PLANNING FOR THE PROVISION OF)	
STANDARD OFFER SUPPLY SERVICE BY)	
DELMARVA POWER & LIGHT COMPANY UNDER)	
26 DEL. C. § 1007(c) & (d): REVIEW)	PSC DOCKET NO. 07-20
OF INITIAL RESOURCE PLAN SUBMITTED)	
DECEMBER 1, 2006)	
(OPENED JANUARY 23, 2007))	

Petition for Intervention of Jeremy Firestone

Now comes **JEREMY FIRESTONE** seeking intervention in this matter:

1. My name and home address are:

Jeremy Firestone
120 Unami Trail
Newark, DE 19711

I will represent myself in this matter.

2. I seek intervention as an individual, but will accept service of documents and other filings care of my business address:

Jeremy Firestone
212 Robinson Hall
College and Earth Studies
University of Delaware
Newark, DE 19176

3. I can be contacted by telephone fax, and email at:

(302) 831-0228 (daytime phone)
(302) 831-6828 (fax)
jf@udel.edu

4. I own a home in New Castle County and am a Delmarva customer and ratepayer.
5. My electricity rates increased approximately 60 percent during the past year. Long term stable prices are important to me.

6. Reliable supply of electricity is especially important to me because I rely on electricity for not only light, heating (I need it to run the electrical motor on my furnace), cooking and cooling, but for water (I need it to run the pump on my well) as well.
7. Since 1999 I have rented beach houses along the eastern seaboard for three extend periods (for a period of one month, one week and one week).
8. I enjoy recreating at the beach in Delaware. I picnic, walk and run barefoot along the beach, play with my step-sons on the beach and in the ocean, swim in the ocean, look for shells, and observe marine mammals from the beach. Beach aesthetics are important to me.
9. In addition to beachgoing in Delaware, I have been to the beach in neighboring states from which an offshore wind farm might be visible.
10. I enjoy canoeing and kayaking. I have kayaked on lakes and in the open ocean. I have canoed on lakes and in rivers.
11. I have hiked in the area of Delaware that abuts Delaware Bay and have gone on an excursion in Cape May county (both wetland areas) for the purpose of viewing wildlife, including migratory birds.
12. I am a member of the Delaware Nature Society and Friends of White Clay Creek State Park.
13. I have had asthma for about 40 years and a runner for about 30 years. Air quality, including levels of volatile organic compounds and particulate matter that may be discharged into the atmosphere from a new source of power, are thus of particular importance to me.
14. I am also concerned with contaminants that may ultimately end up in the water supply, and as a result, I installed a reverse osmosis system on my home drinking water supply.
15. I enjoy cross country skiing and have skied three times in the last week.
16. The burning of fossil fuels for electricity generation results in approximately 40% of human-induced atmospheric CO₂.
17. The Intergovernmental Panel on Climate Change (IPCC) recently issued its 4th climate change assessment. The IPCC concluded that it is very likely (>90% chance) the humans have caused climate change through the discharge of CO₂ and other greenhouse gases into the atmosphere. The burning of fossil fuels very likely will lead to further sea level rise, more intense hurricanes, droughts and massive species extinctions.

18. The projected rise in sea level will overrun most of Delaware's coastal wetlands within this century, and all of Delaware's beaches after this century.
19. It is increasingly likely that burning of fossil fuels if not checked will lead to the melting of the Greenland ice cap (which is up to 2 miles thick in places) and perhaps the West Antarctic Ice sheet. The melting of the Greenland ice cap will result in an increase in sea level of approximately 23 feet. If this were to happen Delaware would change as we know it, with obliteration of all of Delaware beaches, leaving an archipelago left in its place. (see e.g., <http://co2.cms.udel.edu/>).
20. The Board of the American Association for the Advancement of Science released a statement on climate change on February 18, 2007, that concluded in part that "The scientific evidence is clear: global climate change caused by human activities is occurring now, and it is a growing threat to society.... We need an aggressive research, development and deployment effort to transform the existing and future energy systems of the world away from technologies that emit greenhouse gases. Developing clean energy technologies will provide economic opportunities and ensure future energy supplies."
21. The changes that are occurring now as a result of CO₂ emissions are affecting my recreational and other interests and well-being. For example, (a) there are impacts to glaciers in Glacier National Park, a park I have visited in the past and intend to visit in the future; (b) changes in climate may impact my ability to cross-country ski in White Clay State Park which surrounds my neighborhood; and (c) I have existence and other non-use values associated with Polar Bears, which are presently candidate species to be included as a threatened species under the Endangered Species Act.
22. The burning of fossil fuels is also leading to acidification of the ocean, which has significant implications for fisheries and other sea life.
23. My diet for most of the past 25 years I have eaten a diet centered on fish, grains, fruits, vegetables and milk products. The quantity, which also bears on price, and quality (including being free of contaminants) of fish is important to me.
24. Fossil fuel power plants result in millions of fish deaths each year through entrainment, impingement and the discharge of cooling water.
25. Depending on the development of the IRP, my recreational, aesthetic, health and economic interests, including my well-being, will be affected.
26. I have actively participated in the RFP Proceedings, PSC Docket No. 06-241, filing 4 motions, 1 objection to entry of order, three sets of written comments, attending and participating in the PSC/DNREC all day hearing, and speaking during the argument of Bluewater Wind's emergency motion.

27. I have been treated as a party in the RFP proceedings to date. I incorporate the 13 February 2007 “Memorandum of Jeremy Firestone in Reply to Conectiv, NRG and Bluewater Wind’s Objections to Motion for Entry of a Protective Order,” which should be posted soon at <http://www.state.de.us/delpsc/irp.shtml>, and is incorporated by reference.
28. My interests are not be adequately represented by any other party.
29. As for persons who presently may be considered “parties,” it cannot be seriously argued that Delmarva Power can adequately represent and protect my interests. That leaves only the Public Advocate. For the reasons set forth next, the Public Advocate will not adequately represent my interests.
30. The mission of the Public Advocate is to “advocate the lowest reasonable rates for consumers consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers.” 29 Del.C. Section 8716.
31. The Public Advocate is especially concerned with the impact of electricity rates on the elderly and disadvantaged, neither of which I am. See <http://www2.state.de.us/publicadvocate/aboutagency.shtml>.
32. Given the interests set forth above, my interests are significantly broader than the mission and interests of the Public Advocate.
33. My involvement would be in the public interest given my specialized expertise in these matters.
34. I have a B.S. in Cellular and Molecular Biology from the University of Michigan, a Juris Doctorate from the University of Michigan Law School, and a Ph.D. in Public Policy Analysis from the University of North Carolina at Chapel Hill. My CV can be found at www.ocean.udel.edu/cms/jfirestone.¹
35. For my dissertation, I examined compliance and enforcement in U.S. EPA’s of clean air, clean water and hazardous waste programs.
36. I practiced as a natural resources and environmental lawyer for a total of 10 years, first for the U.S. EPA and then for the State of Michigan. I worked on hazardous waste cleanup, solid waste landfill regulation, hazardous waste facility regulation,

¹ Information on my present employment, and activities related thereto, is presented only for the purpose of service and establishing that my involvement in this matter is in the public interest. It does not imply that my participation as a party in this matter has or will be on behalf of the University of Delaware.

wetlands, submerged lands regulation, fish kills, natural resource damage claims, and hydroelectric dam regulation.

37. As a lawyer I drafted legislation and rules and represented state agencies before state and federal trial and appellate courts and in administrative hearings.
38. I first worked on energy issues in the early 1990s, working on FERC regulatory matters. I appeared in numerous proceedings before FERC on behalf of the State of Michigan and in one case before the D.C. Circuit Court of Appeals.
39. As part of my FERC work, I negotiated a national-precedent setting settlement with a utility regarding the relicensing of eleven hydroelectric dams, where the main issues included fish entrainment and passage, natural resource damages, water quality (temperature and dissolved oxygen), and dam retirement funding.
40. I subsequently worked as a consultant for the University of North Carolina Environmental Finance Center on state and local involvement in hydroelectric dam relicensing proceedings.
41. I have done consulting work for the U.S. Commission on Ocean Policy.
42. I am a recognized expert on offshore windpower policy and co-lead a offshore windpower research group and oversee master's theses and Ph.D. dissertations related thereto at the University of Delaware. That work can be found at www.ocean.udel.edu/windpower.
43. I am a regular reviewer of articles submitted for publication in the international peer review journal Energy Policy.
44. I teach a course on U.S. Ocean and Coastal Law, which includes coastal zone management, fisheries, endangered species, marine mammals, and offshore energy regulation, among other topics.
45. I co-teach a course on Offshore Windpower: Science, Engineering and Policy.
46. My efforts (along with those of others) have led to changes in the manner in which the bids will be evaluated and extent to which the public will be involved in and have input into the decision by the four state agencies, as evidenced by:
 - a. Bidding points moving from price to environmental impacts
 - b. Bidding points moving from price to price stability
 - c. Letters submitted in this matter by State Treasurer Jack Markell, the League of Women Voters and others either directly or indirectly supporting the positions I have advocated.

- d. The RFP process including town meetings. During a conference call organized by Senior Hearing Examiner O'Brien on the IRP schedule, I made that suggestion, a suggestion which grew out of Commission staff's proposal for such meetings as part of the IRP process.
 - a. After receiving the FOIA response letter to the News Journal accompanying copies of the redacted bids—a letter in which the onus was put on the News Journal to challenge the redactions to the extent the newspaper was not satisfied—I filed a motion challenging the same and requested the Commission to commence a proceeding to require the bidders to justify their redactions and for the Commission to determine the legality of the same. At the February 6, 2007 hearing the Commission agreed that that the bidders should review their redactions to determine if they had been over-zealous and justify any remaining redactions, with the Commission to consider this matter further on February 27.
- 47. In the context of standing to sue, the Delaware Supreme Court in Dover Historical Society v. City of Dover Planning Commission, 838 A. 2d 1103, 1113 (Del. Supr. 2003) noted that in addition to other interests, “aesthetic injuries can constitute an injury in fact that is sufficient to support a plaintiff's standing.”
- 48. In the judicial context, the fact that any interest is held by the general public ... does not render those same aesthetic concerns any less concrete and particularized” to the plaintiffs.” 838 A.2d. at 1114.
- 49. Likewise, in Oceanport Industries v. Wilmington Stevedores, 636 A.2d 892, 899 (Del. Supr. 1994), noted that the Supreme Court, when considering standing to sue, had moved away from the requirement that the injury differ from that of the public at large to a “zone of interests” test (that is, that interest sought to be protected is within the zone of interests sought to be protected or regulated by the statute in question).
- 50. The test to establish standing to intervene into an administrative matter under Delaware law is much more permissive than the test to sue when that same person seeks to appeal the results (such as a final administrative order) of that same administrative matter to a court of law. In Oceanport Industries, 636 A.2d 892, 900-901 (Del. Supr. 1994), the Delaware Supreme Court was careful to distinguish the “minimal standing requirement” imposed on the general public “for involvement in hearings during the [environmental] permit process,” with the “more stringent ‘substantially affected’ test of the standing to appeal and sue and that were ultimately at issue in that case.
- 51. Reading the definitions of “party” and intervenor” under Commission rule 2 with the rule 21 standard for intervention together suggests that the “direct” interest test in the definition of “party” is met for an intervenor if that individual has an

interest and (a) that interest will not be adequately represented by the “parties” to the proceeding **OR** (b) it would be in the public interest for that individual to participate in the proceedings.

52. Even assuming for the sake of argument that a “direct” interest is required beyond having an “interest,” I easily meet that test as well.

53. By email dated February 19, 2007, Senior Hearing Examiner O’Brien indicated that petitions to intervene should be filed in accordance with Commission rule 6(c) but that service could be perfected by emailing a copy of this petition to the Docket No. 06-241 email mailing list.

I thus respectfully request that this Honorable Commission

1. Grant this petition.
2. Allow me to participate as a party, including having the right to address the Commission and the Senior Hearing Examiner, make comments written and oral, and file motions and other pleadings, and take other lawful actions as deemed appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeremy Firestone". The signature is fluid and cursive, with the first name "Jeremy" written in a larger, more prominent script than the last name "Firestone".

Jeremy Firestone
20 February 2007